

REMARKS

Prior to this Reply, Claims 1-26 were pending. Through this Reply, Claims 1, 5 and 7 have been amended; Claims 2, 3, 4, 25 and 26 have been cancelled; and, Claims 27-46 have been added. Accordingly, Claims 1, 5-24 and 27-46 are now at issue in the present case.

I. Amendments to the Specification

Applicants have amended the title of the application. In addition, Applicants have amended the paragraph that begins on page 2, line 12, such that the application serial number and filing date of the application identified in such paragraph now take the place of the blank lines. Furthermore, other paragraphs in the specification have been amended to correct obvious errors. No new matter has been added.

II. Allowable Subject Matter

The Examiner indicated that Claims 15-24 were allowable. Applicants have not amended such claims. Accordingly, Applicants still believe that such claims are allowable.

The Examiner objected to Claims 4-11 and 13 as being dependent upon a rejected base claim. However, the Examiner indicated that such claims would be allowable if they were rewritten in independent form to include the limitations of the base claim and any intervening claims.

In response, Applicants have amended Claim 1 to substantially include the limitations of Claims 3 and 4. Accordingly, Applicants have cancelled Claims 3 and 4. In addition, Applicants have amended Claim 5, so that it depends from Claim 1 instead of cancelled Claim 4.

Furthermore, Applicants have rewritten Claim 7 in independent form, so that it substantially includes all of the limitations of original Claim 1. Finally, Applicants have added new Claim 27, which substantially includes the limitations of original Claim 1 and objected-to Claim 13.

In view of the amendments described above, Applicants believe that Claims 1, 7 and 27 are in condition for allowance. Applicants also submit that the claims that depend from Claims 1, 7 and 27 are likewise in condition for allowance for at least the same reasons as Claims 1, 7 and 27.

III. Rejection Under 35 U.S.C. § 102(e)

The Examiner rejected Claims 1, 2, 3, 12, 14, 25 and 26 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,490,691 to Kimura et al. (hereinafter “Kimura”).

In response, as described above, Applicants have amended Claims 1 and 7. Furthermore, Applicants have cancelled Claims 2, 3, 4, 25 and 26 without prejudice to, or disclaimer of, the subject matter contained therein. Accordingly, Applicants believe that the rejection of Claims 1, 2, 3, 12, 14, 25 and 26 is now moot.

IV. New Claims

Applicants have added Claims 27-46, which are believed to be patentably distinguishable from Kimura. Some, but not necessarily all, of the reasons in support of the patentability of Claims 27-46 are presented below.

As described above, Claim 27 substantially includes the limitations of original Claim 1 and objected-to Claim 13.

Claim 28 depends from amended Claim 7 and includes limitations similar to those found in objected-to Claim 13.

Claim 29 depends from amended Claim 7 and includes limitations similar to those found in original Claim 12.

With respect to independent Claim 30, Applicants believe that Kimura does not disclose determining a defect density by: “incrementing a counter value if a defect is detected in a selected portion of said area of said disk, and decrementing the counter value if a defect is not detected in a selected portion of said area of said disk” (emphasis added). Accordingly, Applicants believe that Claim 30 is patentably distinguishable from Kimura. For at least the same reasons, Applicants submit that dependent Claims 31-38 are patentably distinguishable from Kimura.

Applicants submit that independent Claim 39 is patentably distinguishable from Kimura for reasons similar to those presented with respect to independent Claim 30. For at least the same reasons, Applicants submit that dependent Claims 40-46 are patentably distinguishable from Kimura.

V. Additional Claim Fees

In determining whether additional claim fees are due, reference is made to the Fee Calculation Table (below).

Fee Calculation Table

	Claims Remaining After Amendment		Highest Number Previously Paid For	Present Extra	Rate	Additional Fee
Total (37 CFR 1.16(c))	41	Minus	26	= 15	x \$50 =	\$ 750.00
Independent (37 CFR 1.16(b))	7	Minus	4	= 3	x \$200 =	\$ 600.00

As set forth in the Fee Calculation Table (above), Applicants previously paid claim fees for twenty-six (26) total claims and for four (4) independent claims. Therefore, Applicants hereby authorize the Commissioner to charge the credit card identified on the enclosed Form PTO-2038 in the amount of \$1350.00 for the presentation of fifteen (15) total claims over twenty-six (26) and for the presentation of three (3) independent claims over four (4). Although Applicants believe that no other fees are due, the Commissioner is hereby authorized to charge Deposit Account No. 50-2198 for any fee deficiencies associated with filing this paper.

VI. Conclusion

It is believed the above comments establish patentability. Applicants do not necessarily accede to the assertions and statements in the Office Action, whether or not expressly addressed.

Applicants believe that the application appears to be in form for allowance. Accordingly, reconsideration and allowance thereof is respectfully requested.

The Examiner is invited to contact the undersigned at the below-listed telephone number regarding any matters relating to the present application.

Respectfully submitted,



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